



Littler Mendelson, P.C.
290 Broadhollow Road
Suite 305
Melville, NY 11747

Lisa M. Griffith
631.247.4709 direct
631.247.4700 main
631.850.5363 fax
lgriffith@littler.com

June 30, 2023

Honorable Joan M. Azrack, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *D'Aquino, et al v. Garda CL Atlantic, Inc.*
Civil Case No. 16-cv-00641-JMA-SIL

Adkins, et al. v. Garda Atlantic, Inc.
Civil Case No. 17-cv-02532-JMA-SIL

Dear Judge Azrack:

This law firm represents Garda CL Atlantic, Inc. ("Garda") in the above-referenced consolidated action. We write to request a conference concerning the motion to dismiss for lack of subject matter jurisdiction filed by Mr. Moser on behalf of Plaintiffs Kerem Bay, Lana Bongiovi, Clement Campbell, Alexander Cioffi, Angelo Caropola, Patrick Crain, David L. Cronk, Dennis DeLucie, Charles J. Engel, Benny Failla, Matthew Farrell, Robert Giani, John Lackenbauer, Michael McDowell, William Maher, John Rossi, Gary Sobek, Damian Sobers, and Cynthia Torres ("moving-Plaintiffs"), which was served on counsel for Defendant on June 15, 2023. Defendant also requests that their deadline to oppose moving-Plaintiffs' motion be adjourned *sine die* pending the conference.

The long and tortuous history of this case is briefly summarized as follows. On May 17, 2017, the Court Ordered the *Atkins* and *D'Aquino* cases consolidated under Docket Number 16-cv-00641. (See ECF Dkt. No. 30.) Defendant moved to dismiss the consolidated action on October 20, 2017. (See ECF Dkt. No. 43.) On August 16, 2018, the Court largely granted Defendant's motion to dismiss the complaint. (See ECF Dkt. No. 50.) In fact, of the twenty-seven Plaintiffs, only the overtime claims of claims of three Plaintiffs—Jimmy L. Adkins, Nancy F. Debe, and Jean-Parnell Louis—withstood Defendant's motion.

Over the course of the next four years, the Parties conducted limited discovery solely concerning the citizenship of one Plaintiff – John Rossi. After limited discovery, on November 2, 2022, Mr. Moser proposed a briefing schedule for Plaintiffs' anticipated motion to dismiss. (See ECF Dkt. No 129.)

Nearly six months later, after the deadline to bundle-file the motion had passed, Plaintiffs' counsel contacted the undersigned to request Defendant's assent to extend the briefing schedule even further.

Honorable Joan M. Azrack, U.S.D.J.
June 30, 2023
Page 2

Plaintiff's counsel stated that the extension was necessary because certain Plaintiffs were deceased and others were unreachable and one did not want him to represent him further. In exchange for consenting to the request, Mr. Moser agreed to inform the undersigned and the Court which Plaintiffs he no longer represented. In fact, on May 31, 2023, Mr. Moser emailed the undersigned that he had "one paralegal dedicated solely to this task." Despite previously representing that some Plaintiffs were deceased, Mr. Moser emailed the undersigned on June 13, 2023, and claimed that he could not "cross anyone off the [] list." On June 15, 2023, Mr. Moser then filed the motion to dismiss on behalf of all moving-Plaintiffs.

Before further judicial resources are expended on this matter, Defendant hereby requests a conference to discuss procedural issues with the moving-Plaintiffs' motion. Accordingly, Defendant also requests that the briefing schedule for the motion be adjourned *sine die* pending any conference Ordered by the Court.

Thank you for your consideration of Defendant's request.

Respectfully Submitted,

LITTLER MENDELSON, P.C.

s/ Lisa M. Griffith

Lisa M. Griffith